



BEFORE THE ARIZONA CORPORATION CC

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

AUG 17 2011

GARY PIERCE - Chairman  
BOB STUMP  
SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS

DOCKETED BY

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IN THE MATTER OF THE APPLICATION  
OF H2O, INC. FOR AN EXTENSION OF ITS  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE WATER SERVICE  
IN PINAL COUNTY, ARIZONA.

DOCKET NO. W-02234A-07-0371

DECISION NO. 72528

**ORDER EXTENDING TIME**  
**DEADLINE CONTAINED IN**  
**DECISION NO. 70207**

Open Meeting  
August 11, 2011  
Phoenix, Arizona

**BY THE COMMISSION:**

Having considered the entire record herein and being fully advised in the premises, the  
Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

\* \* \* \* \*

**FINDINGS OF FACT**

1. H2O, Inc. ("H2O") is an Arizona public service corporation authorized to provide  
water utility service in parts of Pinal and Maricopa Counties pursuant to a Certificate of Convenience  
and Necessity ("CC&N") originally granted in Decision No. 43476 (July 23, 1973).

2. In Decision No. 70207 (March 20, 2008), H2O was granted an extension of its CC&N  
to include Arizona State Land Department-owned ("ASLD-owned") land in Pinal County comprising  
a school parcel of approximately 108 acres in size and a residential parcel of approximately 212 acres  
in size (collectively the "CC&N extension area"). The school parcel was to be used by J.O. Combs  
School District # 44, pursuant to a long-term lease from ASLD, for development of the J.O. Combs  
Academic Campus, to include an elementary school, a middle school, and a high school. The  
elementary school and high school were already under construction at the time of hearing, and

1 construction of the middle school was expected to be completed in 2010. At the time of hearing,  
2 there were expectations for the residential parcel to be sold by ASLD for development, but no  
3 specific development plans were yet in place. The Decision found, however, that the residential  
4 parcel would be difficult to use for agricultural purposes because of its proximity to the schools and,  
5 further, would be completely surrounded by H2O's service area once the CC&N extension as to the  
6 school parcel was granted. The Decision granted the CC&N extension as to both parcels and  
7 required H2O to file, within three years after the effective date of the Decision (by March 20, 2011),  
8 (1) a copy of an Arizona Department of Environmental Quality ("ADEQ") Approval to Construct  
9 ("ATC") for the water plant facilities needed to serve the residential parcel and (2) a copy of an  
10 Arizona Department of Water Resources ("ADWR") Certificate of Assured Water Supply ("CAWS")  
11 for the residential parcel. The Decision provided that H2O's failure to comply with the filing  
12 requirements would render the CC&N extension as to the residential parcel null and void after due  
13 process.

14 3. On March 18, 2011, H2O filed a Notice of Compliance with Decision No. 70207, with  
15 attachments. The attachments included a copy of an ATC, dated March 27, 2008, for construction of  
16 approximately 1,250 linear feet of 8-inch PVC line, one fire hydrant, and other appurtenances for the  
17 Coyote Road waterline main extension; a copy of a 2009 ADEQ letter extending until March 27,  
18 2010, the time to begin construction under the ATC; and a copy of a 2010 ADEQ letter extending  
19 until March 27, 2011, the time to begin construction under the ATC. H2O stated in its Notice that the  
20 ATC is for the residential parcel of the CC&N extension area.

21 4. Also on March 18, 2011, H2O filed a Motion for Extension of Time to Comply with  
22 Decision No. 70207, requesting that the deadline for H2O to file a CAWS for the residential parcel be  
23 extended until March 20, 2014, due to the extraordinary economic conditions currently existing in  
24 Arizona, which have prevented development within the CC&N extension area. H2O explained that  
25 the residential parcel is still owned by ASLD and that no development has taken place. H2O asserted  
26 that the additional time requested would provide ASLD time to sell the property and H2O time to  
27 work with the potential developer to obtain the CAWS.

28 5. On May 26, 2011, H2O filed a Notice of Late-Filed Exhibit to Comply with Decision

1 No. 70207, which included a copy of a May 17, 2011, letter from ASLD Deputy State Land  
2 Commissioner Vanessa Hickman, stating that H2O's CC&N has the continued support of ASLD and  
3 that ASLD requests to have water service for the CC&N extension area.

4 6. On June 17, 2011, the Commission's Utilities Division ("Staff") issued a  
5 Memorandum stating that Staff does not object to H2O's requested extension of time and  
6 recommends that the due date for the provision of the CAWS be extended from March 20, 2011, to  
7 March 20, 2014.

8 7. In light of the severe economic downturn that has affected development in Arizona for  
9 the past several years and the ASLD's continued desire for the CC&N extension area to be included  
10 in H2O's CC&N service area, it is reasonable and appropriate to extend H2O's CAWS filing deadline  
11 as requested in its Motion and as recommended by Staff. Thus, we will extend, until March 20, 2014,  
12 the deadline for H2O to file a CAWS for the residential parcel of the CC&N extension area.

### 13 CONCLUSIONS OF LAW

14 1. H2O is a public service corporation within the meaning of Article XV of the Arizona  
15 Constitution and A.R.S. §§ 40-252, 40-281, and 40-282.

16 2. The Commission has jurisdiction over H2O and the subject matter of H2O's Motion.

17 3. Staff's recommendation to extend H2O's compliance filing deadline for the CAWS  
18 for the residential parcel of the CC&N extension area, established in Decision No. 70207, is  
19 reasonable and should be followed.

### 20 ORDER

21 IT IS THEREFORE ORDERED that H2O, Inc. is hereby granted an extension of time, until  
22 March 20, 2014, to file with the Commission's Docket Control, as a compliance item in this docket,  
23 copies of an Arizona Department of Water Resources Certificate of Assured Water Supply for the  
24 residential parcel of the CC&N extension area granted in Decision No. 70207 (March 20, 2008).

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28 ...

1 IT IS FURTHER ORDERED that all other requirements of Decision No. 70207 shall remain  
2 in effect.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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6   
7 CHAIRMAN

  
COMMISSIONER

8   
9 COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

10 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,  
11 Executive Director of the Arizona Corporation Commission,  
12 have hereunto set my hand and caused the official seal of the  
13 Commission to be affixed at the Capitol, in the City of Phoenix,  
14 this 17<sup>th</sup> day of August, 2011.

15   
16 ERNEST G. JOHNSON  
17 EXECUTIVE DIRECTOR

18 DISSENT \_\_\_\_\_

19  
20 DISSENT \_\_\_\_\_

SERVICE LIST FOR:

H2O, INC.

DOCKET NO.:

W-02234A-07-0371

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